United Nations CRPD/C/SR.180

Convention on the Rights of Persons with Disabilities

Distr.: General
7 April 2015

Original: English

Committee on the Rights of Persons with Disabilities
Thirteenth session

Summary record (partial)* of the 180th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 31 March 2015, at 3 p.m.

Chairperson: Ms. Cisternas Reyes

Contents

Consideration of reports submitted by States parties under article 35 of the Convention (*continued*)

Initial report of the Czech Republic

* No summary record was prepared for the rest of the meeting.

This record is subject to correction.

Corrections should be submitted in one of the working languages of the United Nations. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of the present document* to the English Translation Section, room E.6040, Palais des Nations, Geneva (trad_sec_eng@unog.ch).

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.15-06984 (E) 070415 070415

1506984

Please recycle

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 35 of the Convention (*continued*)

Initial report of the Czech Republic (CRPD/C/CZE/1; CRPD/C/CZE/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Czech Republic took places at the Committee table.*

2. **Ms. Marksová** (Czech Republic), introducing her country's initial report (CRPD/C/CZE/1), said that, since ratifying the Convention in 2009, the Czech Republic had implemented a series of national plans concerning persons with disabilities, with the National Disability Council contributing actively to their preparation.

3. The four years since the submission of the initial report had seen various positive changes. The Civil Code, which had entered into force in 2014, eliminated the possibility of totally depriving a person of legal capacity and prescribed support for adults with limited legal capacity. A bill amending the School Act, which was awaiting approval by the President, would ensure the necessary human, financial and material resources for providing inclusive education in mainstream schools and would enhance the counselling and other services provided to students and their families. Progress had also been made in the accessibility of public buildings, transport, cultural facilities, and libraries and other information services. The quality of social services had also been enhanced, with more emphasis on protecting users' rights.

4. There were still a number of major issues needing attention. Despite many measures to promote the employment of persons with disabilities, their unemployment rate remained disproportionately high. Her Government intended to review the system of employment support to such persons, including the impact of associated systems such as taxation and social services.

5. Psychiatric care remained highly centralized and institutionalized, and public awareness of mental health issues was inadequate. In 2013, her Government had begun steps to overhaul the system in order to emphasize community-based and semi-mural care, expand the role of primary care and general hospitals, modernize psychiatric hospitals, educate professionals working in that field and improve the quality of care. The Ministry of Health was leading the reform in consultation with government officials, doctors, health insurance companies, patient organizations and NGOs.

6. While ratification of the Optional Protocol to the Convention had been postponed because of issues raised during the interdepartmental comment procedure, her Government would continue to work towards that goal.

7. The National Plan on Promoting Equal Opportunities for Persons with Disabilities for the period 2015–2020 took into account the areas needing attention and was expected to be approved by the Government in the coming weeks.

8. The Ombudsman's Office would henceforth act as the independent mechanism for monitoring implementation of the Convention. To that end, the Ombudsman would establish an advisory board composed of persons with disabilities and those defending their interests. An amendment to establish the monitoring mechanism was currently before Parliament.

9. **Mr. Tatić** (Country Rapporteur) said that the State party had made noteworthy progress in implementing the Convention. For example, it had incorporated the prohibition on direct and indirect discrimination against persons with disabilities in its general anti-discrimination legislation, stated in its Building Code that the removal of barriers was in the

public interest, amended its Civil Code to provide for supported decision-making in some cases, and recognized sign language as an official language.

10. He welcomed the delegation's candidness about issues requiring attention, some of which were also outlined in the report and the replies to the list of issues. For example, the fact that denial of reasonable accommodation constituted discrimination needed to be explicitly stated in national legislation. The amended Civil Code still allowed some persons with disabilities to be placed under partial guardianship, which contravened article 12 of the Convention. Many adults and children with disabilities remained in institutions, including psychiatric hospitals. Some of the government and outside funding now invested in institutions could be transferred to support services to enable people with disabilities to live in their local communities. Amendments to the School Act would be welcome, as the report indicated that many children with disabilities remained outside the regular school system. Persons with disabilities could still, in some cases, be denied the right to vote.

11. He welcomed the proposal to appoint the Ombudsman's Office as the independent monitoring mechanism for the Convention and hoped that the Committee's concluding observations would provide the impetus to move the process forward.

Articles 1–10

12. **Ms. Kingston** asked to what extent persons with disabilities were involved in the development, implementation and evaluation of policies affecting them and whether policymakers ensured that people thus involved represented the diversity of persons with disabilities in the Czech Republic and included, for example, representative numbers of persons from rural areas and members of ethnic minorities.

13. The lack of jurisprudence regarding complaints of discrimination on the basis of disability might mean that persons with disabilities had difficulty bringing such cases. In that connection, she enquired what steps were being taken to enhance the capacity of persons with disabilities to bring complaints of discrimination to court and whether members of the judiciary were required to undergo training in the provisions of the Convention. She noted that there was no definition of "reasonable accommodation" in the State party's legislation and that denial thereof was not considered a crime. Lastly, she asked why the employment rate for women with disabilities was lower than that for men with disabilities and how the State party intended to address the disparity.

14. **Ms. Quan-Chang**, noting that laws in the Czech Republic did not all define "disability" in the same way, asked whether the State party intended to align the definitions in its legislation with the Convention. In particular, some laws reflected a purely medical approach to disability. She enquired how the State party intended to tackle the large disparities between the situations of women and men with disabilities in areas such as education, employment and income.

15. **Mr. Langvad** asked how the State party monitored compliance with accessibility laws and what was done when a service such as the Internet was not sufficiently accessible to people with disabilities. He wondered how the State party was tackling the issue of multiple discrimination. Lastly, he wished to know how the State party intended to expand its support to organizations representing persons with disabilities to enable them to participate more effectively in policymaking affecting such persons.

16. **Ms. Degener** asked why the requirements with respect to reasonable accommodation applied only in employment situations and what sanctions were imposed when such accommodation was not provided. She enquired whether Czech law treated the segregation of people with disabilities in educational, work or residential living settings as discrimination.

17. She asked whether there was a policy for deinstitutionalizing children with disabilities. Noting that corporal punishment was prohibited in school and detention facilities but apparently not in the home or in various day-care settings, she enquired whether the State party would consider banning the practice outright.

18. **Mr. Buntan**, commending the State party on its progress in implementing the Convention, asked whether the National Disability Council and other organizations representing persons with disabilities played only an advisory role on the Government Board for People with Disabilities. If that was the case, were there plans to grant them equal status with the other sectors represented on the Board?

19. Regarding accessibility, he wondered whether the Act on Free Access to Information was merely a guideline or whether its provisions could be enforced.

20. **Mr. Kim** Hyung Shik asked how the State party's distinction among different degrees of disability fit with the social and rights-based approach to disability espoused in the Convention, how a person's degree of disability was determined and whether the system prevented persons with disabilities from freely choosing areas in which to work. Lastly, he wished to know what efforts were made to instil awareness of and respect for human rights in the population.

21. **Mr. Lovászy** enquired whether a law or decree guaranteed the parents of deaf children access to training in sign language.

22. **Ms. Peláez Narváez** asked what steps the State party took to ensure that the Convention, which prevailed over national law, was the main text cited in cases involving the rights of persons with disabilities.

23. She requested information about the impact of domestic and sexual violence on women with disabilities, as well as statistics on women with disabilities who had died as a result of such violence and on women who had been disabled by such violence, including complaints filed and data on prosecutions, convictions, compensation and reparation. She asked for clarification as to whether the definition of the crime of rape included situations in which the victim had not actively resisted the attacker.

24. Turning to issues affecting children with disabilities, she asked whether the State party had abandoned the use of "baby boxes" for unwanted infants, as it had been encouraged to do by the Committee on the Rights of the Child in its concluding observations on the State party's combined third and fourth periodic reports to that body (CRC/C/CZE/CO/3-4) in 2011. She enquired whether schools could still reject applications from children with disabilities on the grounds that they could not accommodate the child, and whether parents who sent their children with disabilities to regular schools had to reimburse the school for special costs incurred in the process. Given that most children with disabilities lived in institutions because their parents could not assume the cost of caring for them, what was the State party doing to enable such children to remain at home? What measures were being taken to move from a medical approach to children's disabilities towards a rights-based one?

25. **Mr. Ruskus** said that the State party's legislation did not seem to differentiate clearly between the concepts of "impairment" and "disability" and that, in some laws, the term "invalidity", along with other discriminatory language, was still used. He asked what measures were being taken to ensure that a rights-based approach to the issue of disability was used in all legislation.

26. **Mr. Tatić**, noting with surprise that no court cases had been brought in relation to disability-based discrimination, asked whether any capacity-building efforts had been made by the competent ministries or other bodies to support persons with disabilities and their representative organizations in doing so. He invited the delegation to comment on plans for

the deinstitutionalization of children with disabilities and the provision of support to their families. Lastly, he requested information on the lack of legal proceedings against architects or engineers in relation to failure to comply with accessibility standards.

27. **The Chairperson**, speaking in her personal capacity, asked the delegation to comment on the impact of the national integration strategy for the Roma people on Roma persons with disabilities, given that the strategy did not contain specific objectives in relation to that group.

The meeting was suspended at 3.55 p.m. and resumed at 4.20 p.m.

28. **Ms. Habrnálová** (Czech Republic) said that, under article 185 of the Criminal Code, the crime of rape, which was defined as using violence to force a person to have sexual intercourse or exploiting a person's vulnerability to have intercourse, was punishable by imprisonment for a term of between 6 months and 5 years. There was no requirement for victims to have actively defended themselves. It was considered an aggravating circumstance if a rape was committed against a person with a disability.

29. **Mr. Černikovský** (Czech Republic) said that, under the Constitution, free primary and secondary education in public schools was guaranteed for all children. No child could be refused an education on the grounds of disability. That provision applied in particular to the nine years of compulsory primary and lower-secondary education. There had been a lengthy debate in the country about how best to educate children with disabilities. Traditionally, those children had been educated in special schools or special classes, but in recent years significant progress had been made in including children with disabilities in mainstream schools. His Government had amended legislation on education in order to ensure that adequate support was provided to help children with disabilities on their educational path, preferably in mainstream schools.

30. **Ms. Mičicová** (Czech Republic) said that, to secure the participation of persons with disabilities in policymaking, the Secretariat of the Government Board for People with Disabilities circulated draft legislation to organizations represented on the Board and to other umbrella organizations with nationwide scope. The Board had a coordinating role and advised the Government on issues related to support for persons with disabilities. The National Disability Council was the main advisory body to the Board. The Council's chair and vice-chairs were members of the Board, which meant that they could make proposals and vote on matters being discussed. Civil society was thus directly involved in coordinating policy for persons with disabilities.

31. **Mr. Čulík** (Czech Republic) said that, prior to 2014, total deprivation of legal capacity, entailing loss of the right to vote, had indeed been possible. However, under the new Civil Code, only limitation of legal capacity was permitted, as a measure of last resort. As part of the assessment process for deciding on the scope of such limitation, the courts also considered whether the person concerned should have the right to vote. Any decision to remove that right must be substantiated. Although the process was new, it was expected that most persons with disabilities whose legal capacity was limited would retain the right to vote.

32. **Ms. Marksová** (Czech Republic) said that the use of "baby boxes" had been inspired by neighbouring countries Austria and Germany. The boxes had been introduced in order to prevent the deaths of babies, either as a result of abandonment or directly at the hands of their mothers. In the 9 or 10 years since the boxes had been introduced, 119 babies had been saved. The baby box system was privately run. In some cases, social services located the baby's biological parents, who, with adequate support, were sometimes able to take the baby back. However, in most cases, the babies were adopted.

33. **Mr. Čulík** (Czech Republic) said that the question of terminology was very complex. Sometimes misunderstandings arose owing to translation problems. It was true that, in the past, the Czech term *invalida* had been used to refer to all persons with disabilities. However, that word had since become a pejorative term and had been replaced in official usage by the equivalent of "disabled person" or "person with a disability". The word *invalida* continued to be used only in the pension insurance system. Different definitions of "disability" had been used in a variety of instruments because different sectors — social services, education, transport and health care, for example — dealt with different aspects of disability. The definition that was closest to article 1 of the Convention and took account of all aspects of disability was contained in the anti-discrimination law. Efforts had been made in recent years to produce a standardized definition of "disability". In any case, all of the definitions used in the different systems were based on the International Classification of Functioning, Disability and Health and were consistent with the social model of disability.

34. **Ms. Grabmüllerová** (Czech Republic) said that the provisions of the Building Code and other relevant legislation were legally binding on all those involved in the construction process. Only members of the chamber of architects and the chamber of civil engineers were authorized to design buildings, and both chambers were obliged to take disciplinary proceedings against any member who violated legislation related to construction, including accessibility requirements. To date, no complaints of violations of accessibility standards had been received.

35. **Ms. Příhonská** (Czech Republic) said that, while the number of children with disabilities cared for in institutions was declining every year, the rate of deinstitutionalization was not as rapid as could be wished, for a number of reasons. The priority, wherever possible, was to return children to their own families. However, it took time for social workers to prepare families for the return of a child. The relevant authorities were being provided with additional financial and human resources to support that work. Another option was to reduce institutionalization by finding foster or adoptive families for children who were unable to return to their own families. If parents wished their child to remain in an institution, the focus was on finding the best placement in terms of the child's development. A range of allowances and subsidies was available to help families care for children with disabilities at home. Such allowances were not paid in respect of children with disabilities under a year old because they were considered to have much the same requirements as children of the same age without disabilities.

36. **Ms. Mičicová** (Czech Republic) said that the measures contained in the National Plan on Promoting Equal Opportunities for Persons with Disabilities for the period 2015–2020 were also aimed at the Roma; no distinction was made in the Plan between Roma people and others. It was true that the health of Roma people was worse in socially excluded communities owing to a lack of information and prevention and to lifestyle factors. The Roma Integration Strategy contained specific measures to deal with the causes of poorer health among the Roma.

37. **Mr. Čulík** (Czech Republic) said that a medical expert service was responsible for assessing degrees of disability for the purpose of disability pension insurance. Assessments took into account not only the medical condition of the person being assessed but also the level of functional adaptation to the disability and the impact of the disability on the person's ability to find a suitable job. When the assessment was completed, a recommendation was made concerning the scope of the work that the person was able to do.

38. **Ms. Zajarošová** (Czech Republic) said her Government believed that, if the protection of children was to be comprehensive and effective, it was not sufficient to prohibit corporal punishment, as children must be protected against mental punishment too. Corporal punishment was prohibited by law in institutions and in preschool, primary,

secondary and tertiary education. Sanctions for the corporal punishment of children were provided for in criminal legislation. Corporal punishment was also prohibited in the family under the Civil Code and the Family Act. The Family Act provided that parents and persons in loco parentis had the right to use "appropriate means of education" that did not affect the child's dignity or jeopardize his or her health or physical, emotional, intellectual or ethical development in any way. The words "appropriate means of education" thus could not be interpreted as allowing corporal punishment. The national strategy on the prevention of violence against children covered corporal punishment as defined by the Committee on the Rights of the Child. There were also campaigns to prevent violence against children.

39. **Mr. Černikovský** (Czech Republic) said that there were high-quality schools for deaf and hard-of-hearing children at the preschool, primary and secondary levels and that work was ongoing to include such students in mainstream classes. With the exception of a number of courses run by NGOs, no sign language classes were available for children or their parents outside schools.

40. **Ms. Soukupová** (Czech Republic) said that national legislation made specific provision for victims of crime who were members of vulnerable groups, including persons with disabilities. Those persons had access to free counselling and legal advice.

41. **Mr. Čulík** (Czech Republic) said that, under national legislation, all public authorities had a duty to post public information online in such a way that it was accessible to persons with disabilities. The Ministry of the Interior had set up a special working group to establish guidelines on web accessibility. There were currently no web accessibility standards. However, work was under way to draw up guidelines on the provision of information in easy-to-read formats, and instructions relating to that issue had been included in the National Plan on Promoting Equal Opportunities for Persons with Disabilities for the period 2015–2020.

42. **Ms. Soukupová** (Czech Republic) said that it was hard to change public attitudes towards persons with disabilities. There were plans to raise awareness of the Convention by providing training for judicial and administrative officials and teaching staff and to produce Braille and easy-to-read versions of key documents. Her Government also wished to improve cooperation with organizations of persons with disabilities and would set up a working group for that purpose, composed of representatives of national, regional and local authorities, NGOs and academia.

Articles 11–20

43. **Ms. Kingston** requested additional information on the steps taken to ensure the safety and protection of persons with disabilities in emergency situations and natural disasters and to include persons with disabilities, especially deaf persons, in national emergency protocols.

44. She asked whether judicial officials had been provided with training on the new Civil Code, under which plenary guardianship had been abolished, and how many plenary guardianship cases had been reviewed. She enquired what progress had been made with respect to supported decision-making arrangements and whether the provisions of the new Civil Code sufficed in that regard or whether there was a need for a new act on the recognition of support and guardianship and of family members as supporters.

45. She requested further information on the widespread use of chemical and physical restraint in psychiatric institutions and invited the State party to explain what it intended to do to prohibit such practices.

46. She asked what support mechanisms were available for persons with psychosocial or intellectual disabilities wishing to live independently and be included in the community.

Lastly, she noted that there was no overarching national plan for residential institutions for persons with intellectual or psychosocial disabilities and that there was a lack of community-based services for persons with autism.

47. **Ms. Quan-Chang** asked whether any safeguards or supervisory mechanisms had been put in place to prevent guardians from mistreating persons with disabilities in their charge or misappropriating their assets.

48. The use in institutions in the State party of beds designed to restrict the movement of persons with disabilities was a breach of the Convention and could be considered to constitute torture. In that connection, she asked whether there were any independent supervisory mechanisms in place for the protection of persons with disabilities against torture and cruel, inhuman or degrading treatment. She noted with concern that the practice of placing persons with psychosocial or intellectual disabilities in residential institutions on the basis of a psychiatric assessment appeared to be widespread.

49. She asked whether records were kept of instances of violence, exploitation or abuse targeting persons with disabilities, particularly women and children, or of cases of trafficking of persons with disabilities. Lastly, she enquired how the State party intended to halt the forced sterilization of persons with disabilities.

50. **Mr. Ruskus** asked why the State party continued to invest in residential institutions rather than in community-based care for persons with disabilities.

51. **Mr. Langvad**, noting that persons with disabilities were sometimes subjected to corporal punishment because of behavioural issues, asked whether the State party had taken steps to educate relatives and others close to persons with disabilities in that regard with a view to halting the use of such punishment.

52. The delegation should describe the State party's vision of inclusion in the community, particularly in relation to persons with disabilities who required the assistance of others. He wished to know how the State party ensured that those persons were able to choose where and with whom they wished to live, while receiving the necessary support. He would appreciate information on investment in housing for persons with disabilities and on any checks carried out to ensure that the funds in question were not used to maintain existing residential facilities.

53. Reverting to article 9, he said that it was still not clear to him how compliance with accessibility standards was monitored or enforced. Was a mechanism in place to receive complaints in that regard?

54. **Mr. Tatić** said, with regard to accessibility, that the delegation should also explain whether, in practice, access to buildings and other facilities open to the public was facilitated for deaf or blind persons through the provision of sign language interpretation services or the use of Braille signage, respectively.

55. He asked what the outcome of the study on the accessibility of the courts and other judicial premises had been. During court proceedings, did deaf persons have access to sign language interpretation, and were blind persons provided with documents in Braille or in accessible electronic format?

56. Concerning article 19, he enquired whether financial assistance was given directly to carers or was paid to persons with disabilities themselves, and to what extent the preferences of those persons regarding their living arrangements were taken into account.

57. **Mr. Buntan**, noting that the Sendai Framework for Disaster Risk Reduction for the period 2015–2030 included persons with disabilities as rights holders and contributors to disaster risk reduction work, asked whether the State party planned to adopt inclusive

disaster risk reduction and response protocols, particularly given the commitment of the European Union in that area.

58. He wished to know whether the State party intended to eliminate the guardianship system and adopt supported decision-making as an alternative to the substitute decision-making regime. Lastly, he enquired what was being done to increase the number of legal professionals with disabilities and whether reasonable accommodation was provided in the courts to encourage persons with disabilities to take legal action against perpetrators of discriminatory acts.

59. **Ms. Peláez Narváez** asked when the State party intended to completely eliminate the widespread practice of punishing persons with disabilities by confining them to cage beds, sometimes for weeks on end. That practice had been the cause of numerous deaths, and the institutions responsible acted with impunity. She wished to know how the State party protected the right to a life free of violence of persons with disabilities, particularly women and children, placed in institutions. In that connection, she enquired whether the State party intended to amend the definition of torture and other cruel, inhuman or degrading treatment contained in article 149 of the Penal Code to take into account the situation of persons who had been institutionalized and to recognize their legal personality.

60. She asked what the outcome of the National Strategy to Combat Trafficking in Human Beings in the Czech Republic for the period 2012–2015 had been, notably with regard to the trafficking of persons with disabilities for the purposes of sexual exploitation, forced labour, begging and the removal of organs and tissues, and what specific steps had been taken under the Strategy to protect such persons.

61. She had not yet received a reply to her question on the number of women with disabilities who had died as a result of gender-based violence and the number of complaints, prosecutions, convictions and compensation payments relating to such violence. Did the lack of a reply mean that the State party did not have any such data?

62. **Ms. Degener** said that it would be helpful to have additional information on the Ministry of Justice working group that was attempting to harmonize the legislation on deprivation of liberty and bring it into line with the Convention. She asked whether the State party intended to repeal the legislation allowing for the involuntary placement in institutions and forced treatment of persons with disabilities.

63. **Mr. Kim** Hyung Shik said that the deinstitutionalization process would succeed only if persons with disabilities leaving institutions were provided with employment that enabled them to be included in the wider community and support themselves financially.

64. **The Chairperson**, speaking in her personal capacity, asked whether persons who had been deemed to constitute a danger to themselves or to others could be placed in an institution in consequence. She enquired whether security or treatment measures were immediately applied to persons with psychosocial or intellectual disabilities who were brought to trial and whether reasonable accommodation was made for detainees with disabilities in the State party.

65. She asked what steps the State party had taken in the light of the recommendations made by the Human Rights Committee in its concluding observations on the State party's third periodic report to that body (CCPR/C/CZE/CO/3). The recommendations had concerned violence against women, forced sterilization, failure to pay compensation to women who had been forcibly sterilized, criminal proceedings against possible perpetrators of forced sterilization, the involuntary placement of persons in institutions, and the prohibition of the use of chemical and physical restraints on persons with disabilities.

The discussion covered in the summary record ended at 5.50 p.m.